IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6902 of 2007()

CRIME NO.186/2007 OF KANNUR CITY POLICE STATION

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: PETITIONER/ACCUSED:

P. ABDUL JABBAR, S/O. KADER KUNHI,
AGED 50 YEARS, RESIDING AT 'DARUN NAJA',
THAYYIL, KANNUR-670 003.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS: COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER,
KANNUR CITY POLICE STATION, KANNUR.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6902 of 2007

Dated this the 15th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for the offence punishable under Section 420 I.P.C. The crux of the allegations against the petitioner is that he received an amount of Rs.30,000/- each from eleven job seekers. They were promised that they shall be given employment at Malaysia. Jobs were in fact given. The job seekers were sent to Malaysia. They secured employment under an employer there. They had worked there for some time. But they were dissatisfied with the work which they had to do. They allegedly had no rest. The employer there had no motive other than to make profit for himself. They were made to do hard work for long hours. Payments were not made as were promised by the petitioner in India. Their employer did not pay any amount to them. After reaching Malaysia, the employer also demanded further amounts for having given them the jobs. Except small amounts which was sent to the families of the eleven persons once, no other payment was at all made to the eleven persons who went to Malaysia on the basis of the employment secured for them by the petitioner.

2. To put it in a nut shell, the allegation is only that the job which the petitioner furnished were not satisfying the expectations of the job seekers. The relatives of the job seekers moved the

authorities and those persons have by now been repatriated to India. The allegation is that the petitioner is guilty of the offence of cheating.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even admittedly, jobs have been secured by the persons concerned. Their subsequent dispute with their employer abroad cannot, in any way, make the petitioner culpably liable for any earlier act of his. There is nothing to assume that the petitioner had any culpable motive or intention when he sent the eleven persons to take up employment abroad. In any view of the matter, the petitioner does not deserve to endure the trauma of arrest and incarceration. Subject to any appropriate conditions, which shall ensure the interests of justice, the petitioner may be granted anticipatory bail, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. But notwithstanding the opposition, in the facts and circumstances of this case referred above, I am satisfied that anticipatory bail can be granted to the petitioner.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 22/11/2007. He shall be released on regular bail on condition that he executes a bond for

Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 23/11/2007 and 24/11/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 22/11/2007, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 22/11/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007